

INFORMATION BULLETIN #37

SALES TAX

JUNE 2007

(Replaces Bulletin #37 dated August 2004)

DISCLAIMER: Information Bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is inconsistent with the law, regulations, or court decisions is not binding on the Department or the taxpayer. Therefore, information provided in this Bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

SUBJECT: Sales by and Registration for Out-of-State Merchants

REFERENCES: IC 6-2.5-4-1; IC 6-2.5-4-14; IC 6-2.5-3-1;
IC 6-2.5-8-1

I. Definition of Indiana Retail Merchant

A person is an Indiana Retail Merchant and must be registered with the Department to collect Indiana Use Tax if the retail merchant is engaged in selling at retail for use, storage, or consumption in Indiana. Any person who is entering into a contract to provide tangible personal property to a state agency or a state educational institution is also a retail merchant.

II. Engaged in Business in Indiana

An out-of-state vendor is engaged in business in Indiana and must be registered as an Indiana Retail Merchant and charge Indiana Use Tax on tangible personal property delivered into Indiana if the out-of-state vendor:

- a. maintains an administrative office in Indiana;
- b. maintains a research facility in Indiana;
- c. displays merchandise at local trade fairs and exhibitions in Indiana;
- d. maintains a factory or warehouse in Indiana; or
- e. delivers goods into Indiana by the seller's truck where title and possession transfer in Indiana.

III. Not Engaged in Business in Indiana

An out-of-state vendor is NOT engaged in business in Indiana and therefore is NOT required to register as an Indiana Retail Merchant and charge Indiana Use Tax on tangible personal property delivered in Indiana where the out-of-state vendor's ONLY Indiana activity is any of the following:

1. owning Indiana realty for investment;
2. being "qualified" to do business in Indiana;
3. purchasing goods in Indiana;
4. conducting credit investigations;
5. delivering goods by common carrier or parcel post;
6. being closely related to another person that maintains a place of business in Indiana.

IV. Consigned Goods

An out-of-state seller who consigns tangible personal property to an Indiana resident "on approval" is deemed to be engaged in business in Indiana, and must register as an Indiana Retail Merchant to collect Indiana Use Tax on such transactions.

An out-of-state seller whose only business activity in Indiana is the consignment of tangible personal property to an Indiana resident on a “sale or return” basis is deemed not to be engaged in business in Indiana and is not required to register to collect Indiana Use Tax.

V. Registration Procedures, Requirements and Privileges

An Indiana Registered Retail Merchant’s Certificate will provide the registrant authority to collect Indiana Sales or Use Tax. In addition, the registrant is entitled to privileges of exemption from the tax on purchases of items to be used for an exempt purpose. The registration fee is \$25.00. The Indiana Registered Retail Merchant’s Certificate is valid for two years from the date of issue. Renewal is automatic and there is no charge if the retail merchant is current in filing returns and remitting its sales tax due. If the retail merchant is delinquent and they do not pay their delinquent tax liabilities, the registered retail merchant’s certificate will be revoked, and a \$25 fee for a new application will be assessed once all delinquent liabilities have been paid.

VI. Purchaser’s Use Tax Liability

If an out-of-state vendor is not required to collect Indiana Use Tax, the Indiana purchaser is liable for the Indiana Use Tax on such purchases if the property is to be used, stored, or consumed in Indiana.

VII. Voluntary Collection by Out-of-State Merchants

An out-of-state merchant not required to register as an Indiana Retail Merchant may voluntarily register for an Out-of-State Use Tax Collection and Remittance Permit. Holders of such permits must collect and remit Indiana Use Tax to the Department on sales of tangible personal property subject to use tax. Registration may be completed online at: www.in.gov/dor/electronic.

Another method for an out-of-state merchant to register is through the Streamlined Sales & Use Tax Agreement Web site, www.streamlinedsalestax.org. Registering on this Web site

automatically registers the retail merchant to voluntarily collect tax for 15 full member and 6 associate member states. For more information concerning the Streamlined Sales & Use Agreement and voluntary registration, refer to Commissioner's Directive #27 at www.in.gov/dor/reference/comdir/index.html. No fee is charged for either method of registration by an out of state seller.

A handwritten signature in black ink that reads "John Eckart". The signature is fluid and cursive, with the first letter of "John" being a large, stylized capital "J".

John Eckart
Commissioner